

187538

NETJETS®

Regulatory Docket Number: FAA-2002-13347-1

September 4, 2002

Federal Aviation Administration
Attn: Rules Docket (AGC-10)
Office of Chief Counsel
800 Independence Avenue, SW
Washington, D.C. 20591

DEPT OF TRANSPORTATION
02 SEP 11 PM 2:14

Dear Sir or Madam:

Executive Jet Management, Inc. (EJM), Air Carrier Certificate Number CWQA061D is requesting exemption from the requirements of 14 CFR 135.145 relating to the conduct of aircraft proving tests. In this matter, EJM is represented by:

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PETITION FOR EXEMPTION

This Petition for Exemption ("Petition") is submitted in accordance with 14 CFR 11 and seeks permanent relief from certain rules issued by the Federal Aviation Administration governing the conduct of aircraft proving tests.

SCOPE

This petition request applies to all turbine powered airplanes to be operated by EJM in accordance with 14 CFR 135 and its Operations Specifications.

SPECIFIC RELIEF REQUESTED

14 CFR 135.145

States, in pertinent part, that a certificate holder may not operate a turbojet airplane, or an aircraft for which two pilots are required for operations under VFR, unless at least 25 hours of proving tests acceptable to the administrator have been flown.

EJM is seeking relief from the requirement to conduct actual proving flights¹ as part of the overall proving test process. EJM believes that the practice of conducting proving flights for each turbojet airplane added to its Operations Specifications does not enhance safety and unnecessarily taxes limited FAA resources. EJM proposes to replace proving flights with an enhanced proving test process that incorporates the use of tabletop simulation (TTS).

EJM Company Overview

Executive Jet Management, Inc.² became a certificated Air Carrier (CWQA061D) in 1977 and is based at Lunken Airport, Cincinnati, Ohio. EJM, part of the NetJets family of companies, manages aircraft for major corporations and private individuals and conducts flight operations in accordance with 14 CFR 135 and 91. In addition, EJM operates corporate shuttle flights in accordance with a deviation from 14 CFR 125 for a major semiconductor manufacturer. Supplementing its flight operations, EJM has a substantial maintenance facility that possesses a Repair Station Certificate.

FAA oversight is provided by the Cincinnati Flight Standards District Office. The Principal Inspectors are: James Jackson (POI); Mark Bennett (PMI); and Leon Awalt (PAI).

In calendar year 2001, EJM managed aircraft flew in excess of 25,350 flight hours and 9.5 million statute miles. The current EJM fleet totals over 100 turbine powered aircraft.

EJM Proving Test History

EJM has completed proving flights on a wide array of business aircraft. Most of these proving flights were granted reductions in proving flight hours and recently, two were successfully terminated early based on the high level of performance of EJM. One reason that made early termination of a proving flight possible was the fact that TTS was used prior to conducting the flights. This allowed the FAA to validate the EJM system prior to actual flight operations. Following is a listing of pertinent proving flight data:

(continued)

¹ EJM seeks relief from actual aircraft proving flights, not from the entire proving test requirement.

² Formerly American Air Services, Inc.

	Aircraft Type	Date Proving Flight Completed	75% Flight Hour Reduction	Early Termination
1.	Lear 45	August 27, 2002	Yes	Yes
2.	Lear 60	August 20, 2002	Yes	
3.	Astra (G-100)	September 27, 2001	Yes	Yes
4.	Galaxy (G-200)	June 13, 2001	Yes	
5.	Gulfstream G-IV	June 8, 2000	Yes	
6.	Cessna Citation Excel (CE-560XL)	January 20, 2000	Yes	
7.	Cessna Citation X (CE-750)	February 24, 1999	Yes	
8.	Dassault Falcon 2000	February 3, 1999	Yes	
9.	Cessna CitationJet CE-525	April 23, 1998	Yes	
10.	Gulfstream G-II	March 26, 1998	Yes	
11.	Canadair Challenger CL 600	March 6, 1998	Yes	
12.	Falcon DA-10	June 11, 1997	Yes	
13.	Falcon DA-50	December 11, 1996	Yes	
14.	Hawker 700	September 30, 1996	Yes	
15.	Hawker 1000	May 8, 1996	Yes	
16.	Falcon DA-20		Yes	
17.	Lear Jet		Yes	
18.	IA Jet (Westwind)		Yes	
19.	Citation III (CE-650)		Yes	
20.	Saberliner NA-265			
21.	Citation 500 Series			

The Proving Test Burden

As stated earlier, EJM believes that the practice of conducting proving flights for each turbojet airplane added to its Operations Specifications does not enhance the safety of a proven system and further taxes limited FAA resources - which in turn creates an undue burden on the ability of EJM to acquire new business. As is evident in the provided data, EJM has conducted twenty-one proving flights for turbojet aircraft, eleven of which have been in the past five years.

EJM concedes that proving flights serve a valid purpose for new operators or operators seeking to operate turbojet aircraft initially. It is incumbent on the FAA to ensure that, in these situations, the operator has the necessary infrastructure, personnel, and capabilities to safely operate and support the aircraft. However, safety is not enhanced by requiring operators who have vast experience in the operation of turbojet aircraft to continually prove the capabilities that they safely exercise daily.

(continued)

EJM has also experienced significant delays in the scheduling of proving flights due to the lack of FAA Inspector resources. EJM is a leader in the charter industry, and as such, is continually approached by clients who have purchased the most recent and advanced aircraft models. Current FAA guidance requires that the Principal Inspectors assigned to the operator be participants in proving flights. Unfortunately, significant delays are sometimes encountered due to scheduling. Arranging for the aircraft to be available³ at the same time that the required Inspectors are available is challenging at best and has resulted in instances where the delay has been unacceptable to a potential client and a lost business opportunity for EJM.

EJM believes that it has successfully proven its operations and maintenance systems to the FAA numerous times and that proving flights are no longer necessary to ensure safety or EJM's capability.

Relevant FAA Guidance

The FAA Air Carrier Inspector's Handbook, 8400.10, Page 3-717, Paragraph 1553, states:

"Proving tests consist of a demonstration of the applicant's ability to operate and maintain an aircraft new to an operator's fleet or the applicant's ability to conduct a particular kind of operation, such as domestic, flag, or commuter."

EJM has and continues to successfully operate and maintain a wide variety of turbojet aircraft, and has at its disposal the systems and personnel needed to safely and efficiently manage the operation of these aircraft. In reference to the FAA Order, there is no question as to the ability of EJM to operate and maintain turbojet aircraft.

Additionally there is in process a revision to 14 CFR 91 and 135 (and other applicable regulations) creating 14 CFR 91, Subpart K, which has been developed to regulate the operation of fractional aircraft. Included in the proposed regulatory language is the removal of the requirement for Part 135 operators to conduct Proving Tests for each specific aircraft type. The proposed 135.145(b) would read as follows:

(b) No certificate holder may operate a turbojet airplane if it has not previously proved the same **or another turbojet airplane** in operations under this part in at least 25 hours of proving tests acceptable to the Administrator including-

Regardless of the status of this proposed regulatory change, it is quite clear that the intent of the Administrator is to revise a requirement that is very burdensome, repetitive, and unnecessary. Due to the delays that this rulemaking effort has encountered, EJM is seeking this exemption to provide immediate relief.

³ Most EJM aircraft are not based at the EJM PBO. Most are based elsewhere, and when proving flights are required, they must be ferried to EJM resulting in significant additional delay and cost.

Proposed Alternate Process

EJM proposes to use tabletop simulation (TTS) in lieu of proving flights when conducting the required proving tests. EJM will provide to the FAA Principal Inspectors a standard Proving Test Request in addition to a TTS plan. The TTS proving test will involve the use of the applicable elements of the Proving Test Request and a comprehensive TTS plan that will demonstrate the capability of EJM's system to safely operate and maintain the subject airplane. The TTS plan will, at a minimum, contain the following elements:

1. Facilities to be used.
2. Personnel that will attend and their roles.
3. Documentation to be provided (manuals, charts, etc.).
4. Estimated time to complete.
5. Procedural description (how the TTS will be conducted).
6. Indication of what flight segments, contained in the Proving Test Request, will be used for the simulated flights.
7. Completion standards.
8. Other pertinent information.

A sample TTS plan follows:

Sample EJM TTS Proving Test Plan

Intent:	EJM proposes to demonstrate an alternate means of compliance with 14 CFR 135.145 by conducting Proving Tests for the [insert aircraft type] aircraft through "tabletop" simulation (exercises and scenarios) rather than conducting actual proving flights. This exercise will effectively demonstrate to the Administrator that EJM is fully capable of "operating and maintaining an aircraft new to its fleet" as required by Order 8400.10.
Facilities:	EJM will provide facilities with the necessary privacy to efficiently conduct the TTS. The facility will include at least two phones for use by the FAA and EJM teams. In the event the facility is unable to provide the necessary phones, EJM will provide cellular phones for use. In addition, a white marker board, or equivalent, will be supplied.
Personnel:	EJM will provide a trained and qualified flight crew to participate in the Proving Test TTS. In addition, the Director of Operations will participate as Facilitator.
Documentation:	EJM will provide an Aircraft Flight Manual (AFM) for the [insert aircraft type] aircraft. In the event the serial number specific AFM is not available, EJM will secure a "generic" [insert aircraft type] AFM for use. Any calculations required in a scenario will use the actual aircraft weights, etc., in accordance with the serial number specific AFM. All other manuals, forms, checklists, etc. that are normally carried aboard the aircraft will also be provided.

Time Requirement: EJM believes that the required TTS can be completed in one working day. However, we will ensure that the facility used is available for a minimum of two days.

Conduct of Test: The Director of Operations will act as Facilitator during the Proving Test TTS. The TTS will consist of a number of exercises (tabletop flights) for determining the adequacy of the EJM system. The itineraries included with the applicable Proving Test request will provide the basis for the tabletop flights conducted. The Facilitator will be responsible for keeping both teams focused on the current status of each tabletop flight. He may not aid the flight crew in the conduct of their duties during the Proving Test TTS.

All personnel in the room, unless otherwise indicated, will be assumed by the flight crew to be passengers. FAA Inspectors must indicate to the Facilitator if they wish to assume their Inspector identities. The flight crew will consider themselves to be exercising the privileges of their airmen certificates unless the Facilitator indicates otherwise. The flight crew should expect full cooperation from the passengers at all times.

The FAA team may address the flight crew for purposes they deem valid, however, any communication that changes the current status of the exercise or scenario should be directed to the Facilitator so that all present are aware of the change. So that order may be maintained at all times, only one individual should speak at a given time and individuals may not address areas outside their authority or responsibility.

The Facilitator will begin each TTS by identifying the following to the flight crew and FAA team:

- Location of Aircraft
- Local Time
- Phase of flight (if applicable)
- Weather conditions (if applicable)
- Other pertinent information

For the first tabletop flight of each flight day, the crew will be given the baseline status of the aircraft (fuel on board, etc.) and the baseline status of the crew (rest time, etc.). Unless otherwise informed by the Facilitator, the crew will assume that the exercise will be "real time", i.e. the current time, weather conditions, etc. at the planned airports will be used for all calculations and decisions.

The flight crew will be expected to plan and execute all tabletop flights as if they were actually occurring, including the communications to the appropriate EJM personnel or departments.

EJM will provide copies of actual forms, manifests, etc. for use during the exercises.

The Facilitator will schedule biological breaks as required. Requests for a break should be made to the Facilitator.

EJM suggests the use of the Day 2 and Day 3 itineraries as the basis for the scenarios to be conducted. They are as follows:

Day 2		
Trip Route:	LUK-MSP-ABQ-LUK	
Trip Time:	6.9	
Duty Hours:	10.4	
<u>LUK - MSP</u>		
1.	Flight Time:	1.7
2.	Distance	522 nm
3.	Routing	D HICKI; J24 VHP; D BVT; J89 BAE; EAU CLAIRE TWO ARRIVAL
<u>MSP - ABQ</u>		
1.	Flight Time:	2.5
2.	Distance	852 nm
3.	Routing	MSP 6 FSD; J197 OBH; J128 FQF; J13 ABQ
<u>ABQ - LUK</u>		
1.	Flight Time:	2.7
2.	Distance	1086 nm
3.	Routing	J78 IIU; D MOSEY; MOSEY 5 ARRIVAL

Day 3		
Trip Route:	LUK-MCI-ABQ-LUK	
Trip Time:	6.4	
Duty Hours:	9.9	
<u>LUK - MCI</u>		
1.	Flight Time:	1.7
2.	Distance	479 nm
3.	Routing	DIRECT CVG; V5 IIU; SGF; TYGER 3; MCI
<u>MCI - ABQ</u>		
1.	Flight Time:	2.0
2.	Distance	622 nm
3.	Routing	WILDCAT 2; LVS; FRIHO 3; ABQ
<u>ABQ - LUK</u>		
1.	Flight Time:	2.7
2.	Distance	1087 nm
3.	Routing	ABQ 1; LVS; VHP; MOSEY 5; LUK

Example:

As an example of how the TTS will be conducted, assume that the tabletop aircraft is preparing to depart ABQ for LUK. The Facilitator will announce to all that the exercise is beginning, that the aircraft is at the XYZ FBO at ABQ and the passengers in the room are available to board. The aircraft has XXXX pounds of fuel on board, and the flight crew was off duty the previous day (baseline).

With this information, the flight crew will plan the flight (using the current ABQ and LUK conditions), indicate when it may be boarded, and brief the passengers, etc. If during some part of this exercise the FAA team wished to interject a scenario change, that change would be presented to the Facilitator, who would announce to the room that a change had occurred. The flight crew would then react to the change as appropriate.

The exercise would be complete after the flight crew has informed the passengers that the aircraft has landed and are escorted from the aircraft to the destination FBO.

Completion:

The Proving Test TTS will be considered complete when the FAA Proving Test team has determined that the EJM system has successfully demonstrated its ability to operate and maintain the subject aircraft.

PUBLIC INTEREST

Granting of this exemption request is in the public interest in that it will result in a reduction of required FAA resources that may be reallocated to tasks that have a positive impact on safety. Additionally, the exemption would allow EJM to place aircraft on its Operations Specifications in a timelier manner resulting in more consumer options in the aircraft charter market.

EQUIVALENT SAFETY

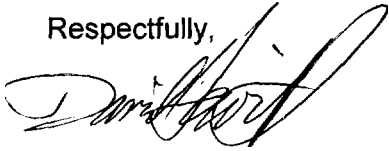
Granting this exemption request will not decrease the level of safety when applied to EJM. As stated earlier, the current proving flight requirement does not help ensure the safety of EJM in any measurable way. By conducting structured proving tests using TTS, the Administrator will have the opportunity to introduce more detailed scenarios to evaluate the system than would be possible during an actual aircraft flight. In a recent TTS, the FAA team was able to introduce and evaluate 42 scenarios. During previous actual proving flights, the FAA team would typically only have the opportunity to present approximately 8 scenarios. EJM believes that not only would an equivalent level of safety be maintained by granting this request, but that the FAA is provided an opportunity to evaluate EJM to a level that may not exist if this request were not granted.

FEDERAL REGISTER PUBLICATION

EJM requests a waiver of the 120-day filing requirements and the publishing of a summary of the Petition in the Federal Register. Any delay in the granting of this exemption request will needlessly encumber FAA resources and result in additional harm to EJM.

Please contact me if further information is required to process this request.

Respectfully,

A handwritten signature in black ink, appearing to read "David Hewitt", written over a horizontal line.

David Hewitt
Vice President, Governmental Affairs
NetJets, Inc.